

APPEAL NO. 030353  
FILED MARCH 27, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on January 21, 2003. The hearing officer resolved the disputed issue by deciding that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the second quarter. The claimant appealed and the respondent (carrier) responded.

DECISION

Affirmed.

The claimant attached several documents to her appeal, all dated prior to the CCH date, that were not offered into evidence at the CCH. We do not consider those documents on appeal because Section 410.203(a) provides that the Appeals Panel shall consider the record developed at the CCH, and because the documents do not meet the requirements to be considered as newly discovered evidence. See Texas Workers' Compensation Commission Appeal No. 93111, decided March 29, 1993.

Eligibility criteria for SIBs entitlement are set forth in Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). The SIBs criterion in issue is whether the claimant made a good faith effort to obtain employment commensurate with her ability to work during the qualifying period for the second quarter. The hearing officer considered the evidence and found that the claimant did not make a good faith effort to obtain employment commensurate with her ability to work during the qualifying period for the second quarter. With regard to the good faith criterion, Rule 130.102(e) provides that, except as provided in subsection (d)(1), (2), (3) and (4) of Rule 130.102, an injured employee who has not returned to work and is able to return to work in any capacity shall look for employment commensurate with his or her ability to work every week of the qualifying period and document his or her job search efforts. That subsection then lists information to be considered in determining whether a good faith effort has been made. Although the claimant documented numerous employment contacts, there was conflicting testimony and documentary evidence regarding the validity of the claimant's job contacts. Good faith effort is a factual determination for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. Although there is conflicting evidence in this case, we conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **TRAVELERS INDEMNITY COMPANY OF CONNECTICUT** and the name and address of its registered agent for service of process is

**DAN FLANAGAN  
1501 SOUTH MOPAC EXPRESSWAY, SUITE A-320  
AUSTIN, TEXAS 78746.**

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Robert W. Potts  
Appeals Judge

CONCUR:

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Chris Cowan  
Appeals Judge

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Gary L. Kilgore  
Appeals Judge